

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE MOTORS LIQUIDATION COMPANY,
Debtor.

MARJORIE A. CREAMER,
Appellant,

-v-

MOTORS LIQUIDATION COMPANY GUC
TRUST,

Appellee.

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DATE FILED: 9-3-12

Chapter 11 Case No. 09-50026 (REG)

No. 12 Civ. 6074 (RJS)
ORDER

RICHARD J. SULLIVAN, District Judge:

Pro se Appellant Marjorie A. Creamer (“Appellant”) brings this action seeking to appeal a judgment of the United States Bankruptcy Court for the Southern District of New York. Appellant’s notice of appeal was docketed on August 9, 2012.

Rule 8009(a)(1) of the Federal Rules of Bankruptcy Procedure requires an appellant to “serve and file a brief within 14 days after entry of the appeal on the docket.” Indeed, a district court may dismiss a bankruptcy appeal *sua sponte* when an appellant “fail[s] to comply with Rule 8009’s time limitation because of bad faith, negligence, or dilatoriness.” *In re Truong*, 388 B.R. 43, 44 (S.D.N.Y. 2008) (collecting cases); *accord Babaev v. Pereira*, No. 07 Civ. 4631 (CBA), 2009 WL 507069, at *1 (E.D.N.Y. Feb. 27, 2009). However, Rule 8009’s time limit “is only triggered once the appeal has been docketed in the district court *and* notice of the docketing

of the appeal has been sent to all parties.” *In re Enron Corp.*, 475 F.3d 131, 134 (2d Cir. 2007) (emphasis in original).

Although more than fourteen days have passed since this appeal was docketed and Appellant has likely already received notice of the appeal, Appellant has yet to file or serve a brief. However, out of an abundance of caution and respect for Appellant’s *pro se* status, this Order shall serve as notice of the docketing of the appeal. Cf. *In re Best Payphones, Inc.*, Nos. 01-B-15472 (SMB), 08 Civ. 2553 (GEL), 2008 WL 8099685, at *1 (S.D.N.Y. July 21, 2008) (noting that oral notice by chambers is sufficient), *aff’d*, 331 F. App’x 25 (2d Cir. 2009). Accordingly, IT IS HEREBY ORDERED that Appellant shall serve and file a brief no later than Tuesday, September 18, 2012. Failure to do so may result in dismissal of this appeal.

SO ORDERED.

Dated: September 3, 2012
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE

A copy of this Order was sent to:

Marjorie A. Creamer
705 S. Monroe St.
Smith Center, KS 66967